

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE MACERICH PARTNERSHIP, LP, et al.,

Plaintiff(s),

v.

McCARTHY BUILDING COMPANIES, et al.,

Defendant(s)/Third-Party
Plaintiffs,

v.

CADMAN, INC., et al.,

Third-Party Defendant(s).

NO. C03-2656P

ORDER ON McCARTHY BUILDING
COMPANIES, INC.'S AND SDL
CORPORATION:
(1) MOTION IN LIMINE NO. 12
(2) MOTION TO STRIKE

The above-entitled Court, having received and reviewed:

1. McCarthy Building Companies, Inc.'s and SDL Corporation's Twelfth Motion in Limine re: Lifecycle Costs;
2. Plaintiffs' Response to McCarthy and SDL's Twelfth Motion in Limine
3. Reply in Support of McCarthy Building Companies, Inc.'s and SDL Corporation's Twelfth Motion in Limine re: Lifecycle Costs
4. Motion to Strike Plaintiffs' Responses to McCarthy Building Companies, Inc.'s and SDL Corporation's Motions in Limine
5. Plaintiffs' Opposition to Defendants' Motion to Strike Plaintiffs' Oppositions to Motions in Limine
6. Reply in Support of Motion to Strike Plaintiffs' Responses to McCarthy Building Companies, Inc.'s and SDL Corporation's Motions in Limine

1 and all exhibits and declarations attached thereto, makes the following ruling:

2 IT IS HEREBY ORDERED that the motion in limine re: lifecycle costs is DENIED.

3 IT IS FURTHER ORDERED that the motion to strike is DENIED.

4 Defendants' motion in limine seeks to preclude Plaintiffs from introducing any evidence or
5 making any argument aimed at extending McCarthy's liability for repairs to the parking garage at issue
6 beyond the five-year "warranty" specified in the parties' Closeout Agreement. The Court notes in
7 passing that this is actually a substantive motion aimed at eliminating one of Plaintiffs' remedies; as
8 such, it is more properly brought as a motion for summary judgment than as a motion in limine.

9 Regarding Defendants' motion to strike Plaintiffs' responses on the grounds that they are untimely, the
10 Court finds that, while the responses to Defendants' motions in limine were indeed filed two days after
11 the deadline, such a delay neither worked an undue hardship on Defendants or prejudiced them in any
12 meaningful way. The responses will not be stricken and all the parties' briefing has been considered in
13 making the rulings on Defendants' in limine motions.

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15 The clerk is ordered to provide copies of this order to all counsel.

16 Filed this 1st day of May, 2006.

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20 Marsha J. Pechman
21 U.S. District Judge